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SUMMARY RECORD OF THE 1686th MEETING

Held at the Palais des Nations, Geneva,
on Wednesday, 22 July 1998, at 3 p.m.

Chairperson: Ms. CHANET

later: Ms. MEDINA QUIROGA

later: Ms. CHANET

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Initial report of the former Yugoslav Republic of Macedonia (continued)

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GE.98-17067 (E)

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Initial report of the former Yugoslav Republic of Macedonia (continued) (CCPR/C/74/Add.4; CCPR/C/63/Q/MKD/1)

1. At the invitation of the Chairperson, the delegation of the former Yugoslav Republic of Macedonia took a place at the Committee table.

2. The CHAIRPERSON invited the delegation of the former Yugoslav Republic of Macedonia to respond to additional questions posed by members of the Committee in connection with the first part of the list of issues (questions 1 to 11 (CCPR/C/63/Q/MKD/1)).

3. Mr. TODOROVSKI (Former Yugoslav Republic of Macedonia), replying to members of the Committee who had pointed out that the Government of the Republic of Macedonia had not described in sufficient detail in its initial report the difficulties it had faced in implementing the Covenant, said the difficulties were due in the main to matters tied in with the succession of the Republic of Macedonia to the international instruments to which the Federal Republic of Yugoslavia had been a party. Very quickly, the Republic of Macedonia had been obliged to shift from a system of protection of rights viewed from the collective standpoint to a new system of protection of rights of the individual. Accordingly, the population was not yet familiar with the new provisions whereby an individual could claim his rights before judicial bodies in person and not through a group, a party or a State mechanism. That was, essentially, the difficulty now encountered in implementing the Covenant in the Republic of Macedonia.

4. As to the Covenant's place in domestic law, when they were ratified by the Government international instruments automatically became part of municipal law and their provisions were directly applicable. Where there appeared to be an inconsistency between domestic legislation and the provisions of a ratified international instrument (including ratification by succession), the Constitutional Court had to rule on the applicability of the instrument in question and, where appropriate, on retroactive application. Furthermore, the courts could directly apply the provisions of international instruments ratified by the State, including the Covenant, because all the rights set out therein were also embodied in domestic legislation.

5. He wished to confirm that the Republic of Macedonia had not entered any reservation, nor had it made the declaration under article 41. The reason for not making the declaration was essentially a political matter. Situated as it was in a region of the Balkans where there were many peoples and minorities, the country had been the target in the past two years of allegations by countries endeavouring to take advantage of article 41 of the Covenant, in the absence of any appropriate judicial procedures. The Republic of Macedonia had, consequently, found it impossible to resort to the remedies it could have

used in such a situation. In any event, in view of the circumstances it was now considering making the declaration provided for in article 41 of the Covenant.

6. The Constitutional Court was not a traditional judicial body but rather a legal-political body recently established in a new form suited to the present period of transition. Accordingly, all private individuals or groups of citizens, all non-governmental organizations and all parties could now bring their cases direct to the Constitutional Court if they considered that they were victims of violations of their fundamental rights. The Constitutional Court did not, for all that, replace the regular courts where the latter lawfully handed down decisions in cases brought before them. Moreover, article 50 of the Constitution set out the general provisions concerning guarantees for fundamental rights and freedoms, while article 110 contained far more specific provisions on the duties of the Constitutional Court, which included protection of freedom of conscience, thought and association. The wording of the last paragraph of article 8 was not perhaps very clear, but the general meaning was that anyone in the Republic of Macedonia was free to act as he wished, provided he did not do so in breach of the law. Furthermore, article 9 enumerated the areas in which discrimination was prohibited, but it was not an exhaustive list and anyone who considered that he was a victim of discrimination for any other reason could make a complaint and also invoke article 14 of the Constitution.

7. The Ombudsman was competent to receive any complaints of discrimination. However, he was not authorized to act in the private sector and persons in that sector had to refer to the regular courts. Lastly, the Government was fully aware of the need to establish a national human rights commission and of the value of such commission and had taken due note of the United Nations recommendations in that regard. Proposals had been made in that regard within the various parliamentary commissions, but no final decision had yet been taken.

8. Ms. Medina Quiroga took the Chair.

9. Mrs. GORGIEVA (Former Yugoslav Republic of Macedonia), referring to the status of women, said that 40 per cent of women in the active population held a job, which was a comparatively high percentage. Out of all working women, more than 48,000 were employed in the non-industrial sector and approximately 100,000 in the industrial sector. Moreover, article 9 of the Constitution prohibited discrimination based on sex and article 32 guaranteed equal access to employment and equal pay. They were the provisions of the law, but they were also the traditional practice followed in the Republic of Macedonia.

10. There was no body that dealt specifically with issues of gender equality, but there was a committee to implement the Beijing Plan of Action. It consisted of representatives of government bodies and NGOs and played a very important role, for example, in collecting data on the situation of women in the various sectors of society. In addition, the Republic of Macedonia had more than 200 women's NGOs and associations which were very active in all projects designed to improve the status of women.

11. Mr. TODOROVSKI (Former Yugoslav Republic of Macedonia) added that, so far as he was aware, the white slave traffic did not exist in the Republic of Macedonia. Moreover, since 1996 homosexuality and lesbianism were no longer offences.

12. As to the place of women in the judicial system, out of the 9 members of the Constitutional Court, only 1 was a woman and, of the 25 judges on the Supreme Court, only 6 were women. On the other hand, out of the 88 judges in the 3 appeal courts, 36 were women and, of the 928 lawyers and members of the Bar Association, 209 were women, which represented a significant percentage and, what was more, one that was steadily rising.

13. Traditionally, the Republic of Macedonia had always been a country of immigration and there were in fact many foreign workers. Nevertheless, there were strict border controls and few workers entered the country illegally. The law also established a very strict procedure to be followed before a person was declared missing and cases of missing persons were also very few and far between.

14. Mr. STOJANOVSKI (Former Yugoslav Republic of Macedonia) said that, under the Code of Criminal Procedure, the police could ask a private individual to provide them with information and, in the event of a refusal, could compel him to do so only with the prior agreement of the court. Furthermore, only one case of abuse of force by members of the police had been reported recently, namely that of a Macedonian who had died as a result of brutality while in police custody. The three policemen responsible had been sentenced to several years' imprisonment. In that connection, it was possible in cases of ill-treatment by the police, to lay a complaint with the higher police authorities, as well as with the regular courts and the Ombudsman. Lastly, medical care was provided in police custody only in the event of an injury or if the person under arrest obviously stood in need of such care. On the other hand, physicians and psychologists were always present to assist persons in pre-trial detention.

15. Mr. TODOROVSKI (Former Yugoslav Republic of Macedonia), responding to questions on detention conditions, said that only two months ago his country had welcomed a mission by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The mission had gone everywhere it wanted to, such as prisons, police stations and frontier military posts, and its report would certainly command the attention of the authorities in the Republic of Macedonia. Admittedly, the prisons were not very modern and detention conditions could be improved. However, there was no overcrowding problem, since the prisons could hold 2,000 detainees, and the total number at the present time was less than 1,000.

16. Solitary confinement and the solitary cell system were not new, as they dated back more than 20 years. The regimes were the same in both cases. They differed only in terms of duration. In the case of solitary confinement, the most recent regulations had reduced the maximum period from one year to six months. In the case of the solitary cell system, the maximum period was 15 days, and 10 in the case of a minor. The solitary cell system had to be approved by the prison warden. It was intended essentially for persons who were regarded as virtually impossible to rehabilitate. In any event, both

disciplinary measures were very rarely applied - and he hoped that that would continue to be the case, so that the possibility could be envisaged of asking Parliament to do away with the relevant provisions.

17. As to the right to a defence, confessions obtained under duress were inadmissible. Moreover, any new version of the facts given by the suspect automatically invalidated his previous version(s). A suspect's testimony did not in itself constitute sufficient proof and the court was required to obtain further evidence. The law guaranteed the defence the right to call witnesses, but the Criminal Code established the specific conditions applying to witnesses for both the prosecution and for the defence. It was nonetheless rare for the Department of Public Prosecutions to refuse to allow a witness to be summoned for the defence. Moreover, in the event of a refusal to summon an important witness on first instance, the appeal court could quash the verdict and the case had to be heard again.

18. Mrs. JANJIC (Former Yugoslav Republic of Macedonia), referring to a question about the organization of the legal profession, said that lawyers belonged to the Bar Association, a national independent body. Under the law it was also possible to establish municipal associations, with a minimum of five members. Like other jurists, lawyers had to have a degree from a law faculty and two years' practice in a law firm. Their fees were fixed by the Bar Association on a scale that applied throughout the territory of the Republic.

19. Mrs. LAZAROVA-TRAJKOVSKA (Former Yugoslav Republic of Macedonia), referring to a question about the procedure for annulment of marriage by a prosecutor, pointed out that the family was an extremely important element of society in her country and one of the prime conditions for marriage was that marriage should be freely agreed to. The prosecutor could ask for a marriage to be annulled only in the event of an offence - for example, if the spouses had submitted false documents to the administrative body responsible for registering marriages, or if one of them was already married. Cases of that kind were extremely rare and the authorities had not encountered one from 1993 to 1997. Prior to 1993, a prosecutor might have annulled a marriage in one or two cases, most probably between a Macedonian citizen and a foreigner.

20. Mr. TODOROVSKI (Former Yugoslav Republic of Macedonia), referring to a question on restrictions imposed during a state of emergency, drew attention to the provisions of article 54 of the Constitution and explained that, while the restrictions on individual rights and freedoms set out in that article did not fully coincide with those set forth in the Covenant, the provisions of the Covenant prevailed in all cases. Furthermore, article 125 of the Constitution afforded a further guarantee, since it established that a state of emergency could not last more than 30 days. In any event, the authorities had not had to apply such measures so far and hoped they would not have to do so in the future.

21. Ms. CHANET resumed the Chair.

22. Mr. YALDEN said the delegation appeared to be mistaken about the meaning of his question regarding equal pay. He would like to know whether the law specified not just equal pay for the same work, which was the rule in almost

all European countries nowadays, but the same wage for work of the same value, a completely different concept, embodied more particularly in ILO conventions.

23. Nor did his other question, regarding homosexuality, appear to have been fully understood. He would like to know whether homosexuals were victims of discrimination and also whether such discrimination was forbidden by law. Sexual preference, as a ground for discrimination, was prohibited in the constitution or the law of a large number of countries, but it did not appear to be one of the reasons set out in article 9 of the Constitution of the Republic of Macedonia.

24. Mr. BHAGWATI said he wished to reiterate his question concerning constitutional remedies, which did not appear to have been understood either. If someone considered that a legal provision or an administrative measure was incompatible with his rights under the Covenant, could he have direct access to the Constitutional Court to enforce the rights in question?

25. Mr. TODOROVSKI (Former Yugoslav Republic of Macedonia), referring to Mr. Bhagwati's question, said that such a possibility was fully guaranteed.

26. As to Mr. Yalden's question about equal pay, the principle of equal pay for work of equal value lay at the core of the regime of socialist self-management in the former Yugoslavia. To his knowledge, the principle still applied and there was no distinction between men and women. However, the situation regarding the social attitudes to equal pay was not so clear, and equality between men and women was not yet fully understood by everyone. However, in terms of the law, it was fully guaranteed.

27. The fact that homosexuality had stopped being an offence in 1996 showed that the population was no longer in favour of discrimination against homosexuals. There, too, time would be needed for attitudes to change and also to make sure that, in relevant texts, homosexuality would be listed as one of the reasons for which discrimination was prohibited.

28. The CHAIRPERSON invited members of the delegation to reply to questions 12 to 21 of the list of issues (CCPR/C/63/Q/MKD/1).

29. Mrs. STEFANOVSKA-SEKOVSKA (Former Yugoslav Republic of Macedonia), referring to question 12, concerning freedom of opinion and expression, said that there were no State-owned newspapers, publishers or distribution companies. The Government held 33 per cent of the share capital of the company producing the Nova Makedonija newspaper. All other press companies - the country had nearly 400 newspapers and magazines - were privately owned. However, the Government did subsidize a number of newspapers, (5 dailies and 12 periodicals in 1997) and largely financed the publication of daily newspapers in the languages of the minorities, which in 1997 had essentially meant public funds for the daily newspaper in Albanian, as they could not exist without such subsidies.

30. In recent years, a number of wholly privately-owned printing companies had been set up. They had modern equipment, charged low prices and had helped the newspaper boom. In 1997, two new dailies and three weeklies had been published, and overall newspapers circulation had risen from 150,000

to 180,000 copies, while the circulation for political magazines had risen from 60,000 to 80,000. That trend had continued into 1998 and a new daily in Albanian had appeared. All those factors helped to further democracy regarding information in what was, in fact, a small market. Furthermore, the prices of all newspapers had fallen drastically, which, in view of what Macedonians could afford, was of great importance in terms of the realization of the right to information.

31. The Assembly of the Republic of Macedonia had established the Macedonian Radio and Television Public Broadcasting Company. Twenty-nine local radio and 5 TV stations were also registered as public companies. In addition, there were 90 radio stations and 29 TV stations registered as commercial companies. Referring to paragraph 399 of the report, she went on to point out too that two commercial television companies and one commercial radio company had obtained concessions to broadcast throughout Macedonian territory. Prior to that, only Macedonian Radio and Television had broadcast nationwide.

32. The independence of public radio and television companies was governed by the principles mentioned in paragraph 397 of the report and was also guaranteed by the procedure for the establishment, membership and competence of the organs of Macedonian Radio and Television. The Management Board consisted of 11 members, including 7 who were independent experts from, inter alia, the scientific and cultural community, and four members of the staff. All members of the Board were elected by the Assembly of the Republic of Macedonia. The head or members of Government, the chairman or members of the Radio and Television Council, officials and members of the leadership of the political parties could not be members or directors of the Management Board. The same rules applied to the election of members of the body to supervise material and financial operations. The director-general was appointed by the Assembly of the Republic of Macedonia. Directors and editors were appointed by the Management Board. In addition, programme councils played a very important role. Their members, elected by the Management Board, came from the cultural or scientific community or were prominent personalities.

33. Macedonian Radio and Television was financed partly by a tax and partly by advertising, donations, and so on. In election campaigns, Macedonian Radio and Television was required to give equal air time to all political parties.

34. The Broadcasting Council was an independent body consisting of nine members appointed by the Assembly of the Republic of Macedonia from the ranks of experts in information, the economy, education and culture. Adequate representation of minorities was also guaranteed. A number of persons could not form part of the Council, namely, members of Parliament, members of the Government, persons employed by broadcasting companies, civil servants and leaders of political parties. The Council's task was to consider questions tied in with radio and television broadcasting, to make proposals concerning the allocation or cancellation of concessions and the use of the broadcasting tax. Its work was public and it reported every year to the Assembly. In 1997, the Council had issued 140 concessions, including 137 to local companies. A number of local concessions were granted to companies broadcasting in minority languages.

35. As to foreign publications, from 1994 to June 1998, 643 applications had been made to import foreign publications and 618 had been accepted. Among the 25 that had been rejected, none had been rejected on account of the material printed. All the rejections had been based on failure to respect the procedure for importing foreign material. Under a new law in the process of being adopted, permits to import foreign printed material would have to be issued by the appropriate government bodies for cultural and news affairs.

36. Mrs. LAZAROVA-TRAJKOVSKA (Former Yugoslav Republic of Macedonia), referring to the first question in section 13 of the list of issues, on participation in the conduct of public affairs, pointed out that, under the Citizenship Law, one of a number of criteria had to be met in order to obtain Macedonian nationality: a person had to be Macedonian by origin, born in the territory of the Republic, or naturalized. It was also possible to acquire Macedonian citizenship pursuant to international agreements. Evidence of 15 years' residence in the Republic of Macedonia was needed for an application for naturalization. The Law specified that citizenship could be acquired by a foreigner lawfully resident in the Republic of Macedonia (art. 7), a person who had emigrated from the Republic, including his descendants to the first generation (art. 8), a foreigner married to a citizen of the Republic of Macedonia (art. 9) and a foreigner whose naturalization was of special social, cultural, sports, economic and national interest, especially in the case of someone of Macedonian origin (art. 11). In addition, the principle was that anyone who, under laws existing prior to the current legislation, had had Macedonian citizenship was still regarded as Macedonian. It had been applied for the purpose of establishing an initial core of citizens of the Republic.

37. As to the second question in section 13, persons who had not acquired the citizenship of the Republic of Macedonia could legally live in the territory of the Republic with the status of a foreigner. They had the same economic and social rights as did citizens and enjoyed freedom of association, as well as freedom of movement. Some such foreigners, who numbered 10,340 at the present time, had been encouraged by the authorities to acquire Macedonian nationality. They had, however, preferred to hold onto their previous status, more particularly because it enabled them to keep certain economic privileges. Furthermore, 1,439 passport applications at consulates of the Republic of Macedonia abroad had been refused not because the applicants had failed to meet the requirements but because they had been the subject of criminal proceedings in Macedonia.

38. Mr. TODOROVSKI (Former Yugoslav Republic of Macedonia), responding to a verbal query, said that expulsion of an alien was a security measure adopted by the courts. As such, it could be revoked only if the President of the Republic pardoned the person concerned.

39. Mrs. JANJIC (Former Yugoslav Republic of Macedonia), referring to the second question in section 13 of the list of issues, said that in the 1996 local elections, 1,423,020 voters had been registered on the rolls. The turnout in the local councils had been 60.1 per cent, and 60.28 per cent in the first round and 50.84 per cent in the second round for the mayoral

elections. In the 1994 general elections, of the 1,360,729 registered voters, 1,051,655 had actually voted. At the present time, the number of registered voters stood at 1,560,000.

40. As to question 14, on electoral procedures, for the purpose of the forthcoming elections in October 1998 a new Law detailing the rules on electing representatives to the National Assembly had been enacted after a wide-ranging democratic debate by all political forces. Drafted in cooperation with the National Democratic Institute in Washington and with Council of Europe experts, it contained provisions designed to ensure that all candidates were equal in the election campaign. Under the Law, an electoral commission had been set up with representatives from the political parties in office, the opposition parties and Supreme Court judges. To ensure due and proper elections, the Law guaranteed equitable representation of the parties in office and of the opposition parties, both in the election commissions and in the polling booths.

41. The Law on the Election of Representatives to Assembly also established the adoption by Parliament of a decision to guarantee equal use of the media by the various candidates. It also contained provisions on the presence of international observers and of human rights bodies. The reports by the observers were, in the main, positive.

42. Mr. STOJANOVSKI (Former Yugoslav Republic of Macedonia), referring to questions 15 and 16, on the right to respect for privacy and freedom from arbitrary interference, said that respect for and protection of the privacy of everyone's personal and family life, his dignity and reputation were guaranteed under article 25 of the Constitution. The Constitution also guaranteed the inviolability of the home, which could be limited only by a court order issued for the purposes of investigating an offence, preventing a criminal act or protecting public health (art. 26). So far, only one public official had been convicted of offences against the inviolability of the home.

43. Mrs. CVETANOVSKA (Former Yugoslav Republic of Macedonia), referring to question 17, on freedom of religion, said that the Republic of Macedonia was a secular State in which freedom of religion was guaranteed for everyone and was directly protected by the Constitutional Court. The Law on Religious Communities and Religious Groups placed restrictions on the exercise of religious freedom for the purposes of public security and public order or the protection of health and property. To date, no religious assembly or activity had been prohibited. Everyone could freely practise his religion, provided he did not offend the religious feelings and affect the rights and freedoms of the members of another religious community. The restrictions were in conformity with article 18, paragraph 3, of the Covenant and paragraph 8 of General Comment No. 22 of the Human Rights Committee. The legislature had carefully avoided any limitations based on "moral" criteria, which could well impose on minority religions the ethical principles of the dominant religion. The Law also established that, to be registered, a religious group must consist of at least 50 adult citizens permanently living in the Republic of Macedonia. The religious group's name should be different from that of existing religious communities. It should clearly indicate that it was a religious group and point to the kind of religious belief. No name of a religious group should contain the words "Republic of Macedonia" or the name

of another State or a public body. The seat of the religious group must necessarily be in the Republic of Macedonia. Religious communities which had existed for a long time, such as the Macedonian Orthodox Church, the Muslim Religious Community and the Catholic Church, were not required to register. No distinction regarding registration was drawn between the various religious groups and communities, which all had the same rights and obligations.

44. Under Macedonian law, types of service other than military service not requiring persons to bear arms could be performed in army units and institutions. For various reasons, including the need to complete the transition to a modern national defence system, to fulfil the criteria for participation in collective security systems and to take account of the present security situation, there was no civilian service. Nevertheless, the current process of making the army more professional should make the conscientious objection issue pointless.

45. With reference to religious ceremonies outside the premises of religious communities and groups, in the case of traditional ceremonies such as processions, the only requirement was to inform the competent body in advance. Since the adoption of the Law on Religious Communities and Religious Groups, no request had been made to hold a ceremony for which prior approval was necessary. In the event of such a request, acceptance or refusal would depend solely on the rules relating to security, health, public order and respect for the rights and freedoms of others, as specified in law.

46. Like all other citizens, members of the Serbian minority were entitled to practise their religion freely. So far, they had not applied to the competent body to register their religious group. It should be noted in that connection that the Serbian Orthodox Church did not recognize the autonomy of the Macedonian Orthodox Church. It had proclaimed the Archbishop of the Serbian Orthodox Church as Administrator of all the eparchies in the Republic of Macedonia, thereby improperly broadening its powers. Such an attitude meant that Macedonian citizens of Serbian origin did not ask for their religious group to be registered, which, unfortunately, prevented them from enjoying certain advantages, such as building temples, recruiting foreign priests, opening religious schools, and so on.

47. Mrs. GROZDANOVA (Former Yugoslav Republic of Macedonia) referring to question 18, on the rights of the child, said that the Constitution established 15 as the age at which a minor could take up employment. The Criminal Code penalized any violation of labour law, particularly in regard to hours of work, paid holidays and protection of young workers. There were no official statistics on infringements of the laws on the employment of children, but it was apparent from the information available that the only infringements related to children in family concerns (catering, farming, trade) i.e. activities that were difficult to control. Most cases related to Muslim families. It was in fact the tradition in such families for a child to contribute to the family income.

48. As to the measures taken by the Government, a programme to protect street children exploited for economic purposes or living as beggars was being prepared in cooperation with the Open Society Institute.

49. The Criminal Code punished a broad range of offences against children, including sexual abuse. There were no official data on sexual abuse because cases were almost never reported by families. Activities intended to protect children against sexual abuse included the preparation of a programme to make the population aware of the problem of violence and sexual exploitation experienced by children, the aim being to make sure that cases of sexual abuse were promptly detected. The programme, which paid special attention to prevention, involved a multidisciplinary approach. The activities included cooperation with existing prevention programmes and institutions concerned with children's mental health, more particularly the social welfare centres, paediatrics clinics, psychiatric centres and crisis centres and SOS telephones for ill-treated children. In addition, training seminars would be organized for social workers, pedagogues, psychologists, teachers and health professionals on detecting and combating problems and helping children who suffered sexual violence. The seminars should make it possible to gather information, prepare a pilot study on the present situation in the Republic of Macedonia and set up a database on sexual abuse. Furthermore, meetings would be arranged with parents and teachers and cooperation with the media would be strengthened. The results would be used as the basis for a nationwide programme for the treatment of sexually abused children.

50. As indicated in the report, more and more people were taking heroine and other drugs and there were an estimated 1,600 to 3,000 drug addicts in the Republic of Macedonia. The people afflicted were younger and younger, so that now not even children were safe. Mindful of the seriousness of the problem, the Government had established a National Intersectoral Committee to combat illicit drug production, trafficking and abuse. A draft law to combat the problem was now being prepared. The Committee's task would be to plan, coordinate and direct the activities of the relevant ministries. Furthermore, contacts had been made in recent years with appropriate international bodies. There were no accurate statistics on children who took drugs, but the total number of young addicts (including children) in the period from 1993 to 1997 had been 268. In 1997, a questionnaire had been issued to all social welfare centres to collect data on drug addicts. By December 1997, the centres had reported 129 cases, a figure which should nonetheless be viewed cautiously because of the difficulties in determining the numbers of drug addicts. The data obtained showed that the young were the population group most at risk. Forty-five per cent of the persons affected had not gone beyond primary school, 25 per cent had finished secondary school and 23 per cent had dropped out. Most of the 129 addicts were Macedonians, Albanians or Roma. The figures clearly showed the need for urgent action to train specialist personnel capable of providing the victims of that scourge with the help they needed. For that purpose, a seminar on prevention, detection and early intervention had been organized in 1998 for social protection workers at social welfare centres.

51. Mrs. GORGIEVA (Former Yugoslav Republic of Macedonia), referring to question 19, on the rights of persons belonging to minorities, said that the Government's active policy of integration to make greater room for persons from minorities in all spheres of public life had produced positive results. Out of the 1,860 members of the municipal councils after the local elections in October 1997, 401 had been of Albanian origin, 44 Turkish, 6 Serbian and 15 Roma. Of the 25 judges on the Supreme Court, 5 belonged to ethnic

minorities. The proportion was 13 out of 88 for judges in the courts of appeal and 55 out of 1,234 for judges in courts of first instance. In that connection, the number of candidates for elective office from ethnic minorities was still inadequate.

52. In the Ministry of Education and Sport, employees from the minorities accounted for 10.04 per cent of all posts and 27 per cent of executive posts. The Ministry of the Interior's policy was to steadily increase the number of persons from the minorities. The quota in the secondary schools and police academies, which had stood at 15 per cent in 1991, had now risen to 22 per cent. Persons graduating from those establishments were immediately recruited by the Ministry. At the local level, the population's demographic and ethnic structure was also taken into account. Despite those measures, the population unfortunately showed little interest in the civil service, chiefly because of the low salaries.

53. In the period from 1993 to mid-1998 a total of 2,787 complaints had been made against the police. It was not possible to determine how many had been filed by persons from the ethnic minorities, for the Ministry of the Interior did not take ethnic origin into account in its statistics, something which would in any case have been contrary to human rights. Of the complaints filed, 76 had been declared admissible. Where necessary, inquiries had been initiated and criminal proceedings had been brought.

54. Mrs. JAKOLEVSKA (Former Yugoslav Republic of Macedonia) said that there were a number of reasons why so few young girls from minority groups went beyond primary school. Secondary education was not compulsory and it was the parents who decided whether a girl should continue her studies. Among ethnic Albanians, the traditional view of the parents was very often that primary school was enough for girls and therefore they had to work at home, marry very young, become mothers and housewives. The worst situation was in the rural areas, where there were many ethnic Albanians. Fully aware of the difficulty of changing the values system, the authorities were considering measures to increase the number of schoolchildren from the minorities, particularly young girls. Efforts were being made in two directions: a reform to make school more attractive and better suited to children's needs, while preserving tradition and religion, which was a delicate matter. During the 1997/98 school year there had been 12,778 ethnic Albanian pupils in secondary schools in the Republic, including 4,764 girls (i.e. 37.28 per cent).

55. Despite severe economic constraints, the Government had constantly taken measures to improve the coverage of the minorities in secondary education. To begin with, the Ministry of Education was opening new classes each year and demand was particularly strong in regions where the ethnic Albanians lived (Tetovo in particular). In 1998 it would prove necessary for the Ministry to create classes for 520 more pupils. A further difficulty, however, lay in the demand, for young girls from the Albanian minority focused on the medical secondary schools, a preference that was explained by a stereotyped image of women. Jobs would also have to be found for people graduating from those schools. What was more, the technical and vocational secondary schools often had empty places.

56. Other measures were also taken: a secondary school entrance examination in the mother tongue; if girls were not authorized to go to the neighbouring town to attend secondary school the Ministry of Education opened special classes in the villages in which they lived; in the towns, a number of secondary school classes were "reserved" for pupils from surrounding villages where ethnic Albanians lived; scholarships were awarded on the basis of school results and of the financial situation, with the preference going to females from the minorities. In the elementary schools, psychologists and teachers were trying more particularly to favour the emancipation of young girls, especially those from the minorities, and they provided vocational guidance. A number of projects had been devised over the past two years in a number of areas: discrimination against girls in secondary schools, a better understanding of conflicts, appreciation of differences, games for solving conflicts, and a civic education component in secondary schools.

57. Lastly, to improve the quality of knowledge needed to pass the university entrance examination and provide a better grasp of the Macedonian language, a project known as the "Transition Programme" had been designed for secondary school pupils wishing to enter university. It had been prepared by the Ministry of Education and the OSCE High Commissioner for National Minorities.

58. Mrs. GORGIEVA (Former Yugoslav Republic of Macedonia), referring to the question about measures to prevent the media from creating distrust and tension between ethnic groups, said that one of the basic principles of the Broadcasting Law was the promotion of tolerance and respect for cultural diversity. The Law expressly prohibited the use of programmes to fan hatred or national, racial or religious intolerance. The same prohibition appeared in the Public Information Law. The Criminal Code penalized incitement to hatred, discord and national, racial and religious intolerance by 3 to 5 years' imprisonment. Those provisions were not intended specifically for the media, which did not mean they could not be applied. Fortunately, it had not proved necessary so far to apply the provisions in question, for the media in the Republic of Macedonia did not encourage inter-ethnic tension. Indeed, they had echoed the views of people and political parties that could be described as fostering tolerance. Since the kind of behaviour in question was largely attributable to political parties, it had been agreed at a series of party summits organized by the President of the Republic that the issue of inter-ethnic relations would not be abused in electoral campaigns. It should also be noted that the Declaration on the Promotion of Inter-ethnic Relations adopted in 1997 by the Assembly of the Republic in a spirit of tolerance, dialogue and mutual respect, emphasized the role and responsibility of the media in shaping public opinion and making the public aware of the need to respect differences and human rights in general.

59. The Law on the Use of Flags of National Minorities had been adopted on 8 July 1997 to overcome growing tensions. It regulated the use of flags by persons from ethnic minorities wishing to express their ethnic identity and characteristics. It should be noted that international law had not set any established standards in that regard. The Law did not envisage any restriction on the use of the flags in question in private celebrations or at cultural, sports and other events organized by persons belonging ethnic minorities in the Republic of Macedonia. In connection with legal holidays,

such persons could also hoist the flag that expressed their identity and ethnic character in front of premises of the organs of the units of local self-government. In that connection, the events in Gostivar on 9 July 1997 had been caused by failure to observe the decisions of the Constitutional Court abolishing the Statute of the Municipality of Gostivar and the decisions of the Municipal Council of Tetovo concerning the presence of the flags of ethnic minorities (identical to the flags of the Republic of Albania and the Republic of Turkey) hoisted in front of the municipal council buildings. To implement the Constitutional Court's decisions, special forces from the Ministry of the Interior had lowered the flags in front of the municipal council buildings in Gostivar and Tetovo; shots had been fired at the police, which had been compelled to shoot back. Three demonstrators had been killed and eight officers of the Ministry of the Interior had been seriously wounded. Legal proceedings against an unknown perpetrator had been initiated, but the procedure was complicated by the fact that an autopsy had not been conducted on two of the three victims because the families had not allowed it. The Government of the Republic of Macedonia had held two meetings to consider the events in Gostivar and Tetovo, on the basis of information supplied by the Ministry of the Interior. The Government had also established a Working Group, consisting of three ministers, with the task of examining all aspects of the events in question and determining whether the police had overstepped the mark. When it had considered the steps taken by the Ministry of the Interior to apply the Constitutional Court's decision, the Assembly of the Republic of Macedonia, for its part, had decided to set up a Commission of Inquiry consisting of seven representatives from all parties in the assembly. The Commission of Inquiry's task had been to examine the circumstances and the exact point at which the Ministry of the Interior had taken action and to assess whether there had been any abuse by the police. The Commission of Inquiry had submitted a report, along with proposed measures, which had been considered and adopted by the Assembly. In the report, the Commission of Inquiry had noted that the mayor of the municipality of Gostivar had refused to meet the Commission's members and the Commission had come to the conclusion that the police had been required by law to take the various steps it had taken in order to apply the Constitutional Court's decision. After considering the document submitted by the Ministry of the Interior, the Commission had not been able to establish the existence of documents revealing any abuse of power. As to the actual application of the measures taken, the Commission had concluded that abuses had been committed by private individuals and groups, but had been unable to identify them. Such identification fell to the competent bodies. The Commission had established that two of the three victims had died on the day of the events and the third a few days later. For the purposes of criminal responsibility, proceedings had been instituted against an unknown person.

60. On the basis of those findings, the Commission had proposed a number of measures: prompt finalization of reform projects in the Ministry of the Interior, with special emphasis on appropriate representation of members of the ethnic minorities in the Ministry's staff; updating the legal framework governing the role and functioning of the Ministry of the Interior so as to make it conform to international standards; increased training in international standards and practice for police officers; continued, greater

efforts to identify the persons who were committing abuses; and encouraging scrupulous observance of the Public Gatherings Law by citizens and organizers of mass meetings.

61. Mr. STOJANOVSKI (Former Yugoslav Republic of Macedonia) said he wished to add a few details in connection with the police action at Gostivar in July 1997. In the course of the events in question, the fundamental rights guaranteed by the Constitution had been respected, including the right to the inviolability of the person and the home and the right to individual freedom. The persons arrested for disturbing the peace had been released within the legally-prescribed period after the judicial formalities had been completed. The other detainees, essentially the organizers and the authors of unlawful activities and acts, had been placed in custody under an order issued by the appropriate court and had been provided with a court-appointed counsel. Under a warrant that had been issued, the offices of the mayors of the municipalities of Gostivar and Tetovo had been searched, as had the homes of two guards.

62. An examination of the objects and material found (weapons and ammunition, documents about para-security and other forces) showed that the warrant issued had been necessary and entirely justified. The information collected on the persons who had died and those who had been injured during the disturbances in Gostivar had been confirmed. An inquiry had been initiated to determine the causes of death. As for all the persons who had taken part in the rioting, criminal proceedings had been brought against them and, in most cases, the charges against them had been confirmed by the court. Lastly, training for police officers was an ongoing activity in the police and more details would be found in the answer to question 21 of the list of issues.

63. Mrs. GORGIEVA (Former Yugoslav Republic of Macedonia) said that the Council for Inter-Ethnic Relations had been established by the Assembly of the Republic of Macedonia, pursuant to the Constitution. The decision to establish the Council had been taken in June 1993 and the first members had been elected in that year. The next elections had been held in December 1997 and the members had a four-year term of office. The Council consisted of a president and 12 members; it was headed by the President of the Assembly of the Republic of Macedonia. The Assembly itself, on the proposal of the President of the Republic, appointed the members on the following basis: two Macedonians, two Albanians, two Turks, two Vlachs, two Roma and two Serbs. The Council had its own rules of procedure and its meetings were normally public. It considered issues raised in connection with ethnic relations, issued opinions and made proposals to solve them.

64. Mrs. JAKOVLEVSKA (Former Yugoslav Republic of Macedonia), continuing the reply regarding question 19, said that at university level, persons from minorities could study in their mother tongue in the Faculty of Philology in the University of Skopje, the Albanian Language and Literature Department and the Turkish Language and Literature Department, as well as the Slavic Languages Department, in the Faculty of Dramatic Arts, where there was a special class in Albanian and in Turkish, and lastly, at the Faculty of Pedagogy in Skopje, where there was a four-year course in Albanian and in Turkish, as well as courses in Macedonian.

65. The Government was taking steps to increase the number of students from ethnic minorities in the State universities, to improve their level of education and thus enable them to play a greater part in public life. To that end, the Government had established a 10 per cent quota for students from ethnic minorities who wanted to register at university during the 1992/93 academic year. Since the quota had not produced the results expected, it had been decided as from the 1995/96 year to establish for each minority a percentage representing its proportion of the overall population. That was the background to the Transition Programme adopted by the Government and implemented in cooperation with the OSCE High Commissioner for National Minorities. The Programme, which would start in September 1998 in a number of secondary schools providing education in the minority languages, arranged for additional studies in technical terminology in disciplines chosen by the students in the last year of their secondary education, so that they had a better opportunity of passing the university entrance examinations.

66. Over the period from 1992 to 1998, the number of applicants for university from the minorities had steadily increased, from 691 for the 1991/92 academic year to 2,023 for 1997/98, i.e. a 192.8 per cent increase in the space of six years. Candidates from the minorities, as a percentage of the total number of candidates, rose from 6.4 per cent in 1992 to 15.5 per cent in 1998. The number of university-registered students from the ethnic minorities had steadily risen from 302 in 1992 to 1,073 in 1998, an increase of 255.3 per cent. As a percentage of the total number of registered students they had risen over the same period from 6.2 per cent to 15.5 per cent. The ratio of successful candidates and enrolled students belonging to ethnic minorities had increased by 10 per cent, from 43.7 per cent in 1992 to 53 per cent in 1998. The percentage of enrolled students was nonetheless lower than it should be, but the trend was still a positive one. The situation could be explained essentially by the fact that children from some ethnic minorities did not have a secondary education. The government measures to increase the numbers of such children in secondary schools had produced results above all in the Albanian and Turkish minorities: a 321.35 per cent increase among ethnic Albanians and a 198.96 per cent increase among ethnic Turks. The second reason was the inadequate grasp of the Macedonian language in order to pass entrance examinations. That was due perhaps to the fact that, in the school curricula of children from the ethnic minorities, Macedonian was studied as a foreign language, for an average of two classes a week. Moreover, learning a language started in the third grade in primary school. It was hoped that the Transition Programme would overcome that problem. The third reason was tied in with the fact that persons from some ethnic minorities were not interested in a university education, for traditional reasons. Attempts should therefore be made to arouse the interest of that part of the population. In that connection, the political manipulation caused by the establishment of the so-called University of Tetovo, in the case of students of Albanian ethnic origin, had acted as a brake on that positive development.

67. The so-called University of Tetovo was an illegal institution, since it had not been established in accordance with the relevant legislation and the people who had created it had never submitted the requisite detailed

application to the appropriate ministry. Consequently, the legally-established procedures for deciding on the application had not been respected, something that was a mark of contempt for the system's institutions and the legal procedures applicable.

68. The establishment of the "Albanian language university" had been politically motivated right from the outset and had gone beyond educational concerns, which was also the opinion of the Office of the OSCE High Commissioner for National Minorities. When the initiative was viewed in the context of the radical demands of certain political figures who represented the interests of citizens of Albanian origin and called for amendments to the Constitution in order for the minority to acquire the status of a constituent nation and to introduce an official bilingual system, or to create bodies parallel to existing organs and institutions, the creation of the "University" could simply be regarded as yet another stage in achieving the political aims of destabilizing the State.

69. The disturbing thing was that the manipulation of young people could well lead to frustrations later on. In that connection, views had been expressed at the international level on the quality of the education provided at the "University" of Tetovo. A fact-finding mission to the "University" by the International Helsinki Federation in April 1997 had declared in its report that the administration did not have information on the composition or on the qualifications of the teaching staff, nor did it have a list of the courses or curricula. According to the International Helsinki Federation, there was no information on the number and the educational level of the students enrolled. The university administration had expressed the intention of "forcing the authorities to employ graduates" and the Federation had concluded that such an undertaking was not likely to succeed and would create an environment favourable to political manipulation of the unemployed "graduates". The inference was that the education at the university far from satisfied the basic international standards. Confirmation was to be found in the statement by the OSCE High Commissioner for National Minorities, who, in the course of one of his visits to the Republic of Macedonia, had emphasized that the Government had not been obliged to recognize the so-called University of Tetovo.

70. Even if the initiative was to be viewed as a response to a purely educational need for citizens of Albanian origin, it could in no sense contribute towards integration of those citizens in society. On the contrary, it would only push them towards ghettoization. Such a conclusion should not be construed as meaning that the Government was neglecting the need to promote and reform university education in general, for the measures taken in that regard demonstrated the opposite. The delegation wished to emphasize that the Government was in the process of devising a legal framework in that matter, in active cooperation not only with the OSCE High Commissioner for National Minorities, but also with expert teams from the Council of Europe, in a traditional spirit of transparency.

71. The CHAIRPERSON said that the Committee would continue its consideration of the initial report of the former Yugoslav Republic of Macedonia at the next meeting.

The meeting rose at 6 p.m.

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Sixty-third session

SUMMARY RECORD OF THE 1687th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 23 July 1998, at 10 a.m.

Chairperson: Ms. CHANET

later: Mr. BHAGWATI
(Vice-Chairperson)

later: Ms. CHANET
(Chairperson)

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (continued)

Initial report of the former Yugoslav Republic of Macedonia

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GE.98-17187 (E)

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Initial report of the former Yugoslav Republic of Macedonia (CCPR/C/74/Add.4; CCPR/C/63/Q/MKD/1)

1. At the invitation of the Chairperson, the delegation of the former Yugoslav Republic of Macedonia took places at the Committee table.

2. Mr. TODOROVSKI (the former Yugoslav Republic of Macedonia) said that, according to information just received from Skopje, the Constitutional Court, in rejecting the appeal of Mr. Rufi Osman, had explicitly stated that it was proceeding on the basis of article 19 of the Covenant and articles 9 and 10 of the European Convention on Human Rights.

3. Ms. GORGIEVA (the former Yugoslav Republic of Macedonia), continuing her delegation's response to paragraph 19 of the list of issues (CCPR/C/63/Q/MKD/1), said that, according to the 1994 census, there were 47,408 Roma (2.3 per cent of the total population) in her country. The Roma community, which was not nomadic, showed a high level of integration and a clearly expressed sense of belonging to the FYR of Macedonia. The citizenship status of the Roma had been regulated to a high degree and no cases of organized or individual animosity or violence against them had been recorded. Like other minorities in the FYR of Macedonia, the Roma received equal treatment under the law and enjoyed all rights without any discrimination under the Constitution.

4. Four political parties represented the interests of the Roma minority; two of them had a representative each in the National Assembly, as well as 15 representatives in local municipal assemblies. Several citizens' associations were also in existence. A candidate of Roma origin had been elected Mayor of the municipality of Suto Orizari, the only municipality in the world where the Roma language was in official use.

5. Learning the Roma language was optional in the elementary education system. A first reader and grammar of the language had recently been prepared and published, and training facilities were provided for staff wishing to teach it. In the 1996/97 school year, 558 students at four primary schools in Skopje had been taught the Roma language on an optional basis. The real problem was the Roma minority's traditionally negative attitude to education, which resulted in many Roma children dropping out of school. The resulting low educational level had an impact on the Roma's social status and integration later in life. However, special programmes aimed at improving the status of the Roma in the educational process were being operated by several non-governmental organizations (NGOs) and foundations and the number of Roma students who had completed their secondary education, or had received some secondary education, had risen slightly in the past few years.

6. So far as the media and culture were concerned, the State broadcasting company had provided 26 hours a week of television programmes and 174 hours a year of radio programmes in the Roma language in 1994, raising those figures

to 48 and 182 hours, respectively, in 1995. The upward trend had continued in 1996 and 1997, and efforts were being made to continue it still further. In addition, private broadcasting companies had transmitted 72 hours of television programmes and 184 hours of radio programmes in 1994. Lastly, the "Pralipe" theatre, one of the most famous theatres of the Roma, having been active in Macedonia for many years, was successfully continuing its work in Germany.

7. Mrs. LAZAROVA-TRAJKOVSKA (the former Yugoslav Republic of Macedonia), responding to paragraph 20 of the list of issues, said that the status of refugees and asylum-seekers was regulated by articles 40 to 55 of the Law on the Movement and Stay of Foreigners. A separate law on asylum-seekers was being drawn up by a group of Macedonian experts in cooperation with the United Nations High Commissioner for Refugees (UNHCR). The existing provisions were in line with the relevant international instruments.

8. The Ministry of Internal Affairs dealt with applications for refugee status and the Ministry of Labour and Social Policy was responsible for providing applicants with accommodation, support and health services. There had been no case of a person seeking refugee status in the FYR of Macedonia since 1993; the 104 Albanian citizens residing in the country as refugees had acquired refugee status before that date.

9. In accordance with the legislation in force and in the light of practical experience, asylum-seekers could not be returned to their country of origin by force while their application was being considered or after a decision had been taken. Their right to freedom of movement was the same as that of citizens of the FYR of Macedonia, which meant that it could be restricted only on grounds of safety, public health or the need to protect the rights and freedoms of other persons. Asylum-seekers and persons with refugee status had to report changes in their place of residence to the Ministry of Internal Affairs.

10. Mrs. CVETANOVSKA (the former Yugoslav Republic of Macedonia), replying to the questions in paragraph 21, said that most of the seminars for civil servants held in the FYR of Macedonia in recent years had been in the human rights field and had been organized in cooperation with international organizations, especially the Council of Europe. Expert advisory consultations and seminars for judges, public prosecutors, lawyers and prison staff, as well as for staff employed in the office of the National Ombudsman, were frequently organized by the Ministry of Justice, and the Association of Judges was actively involved in the training and education of judges.

11. Several seminars with the participation of international representatives, including some from the United Nations Centre for Human Rights, had been held for the purpose of training in human rights matters uniformed police officers of the Ministry of Internal Affairs. Police officers were also regularly sent to international seminars held in other countries. Human rights issues were also included in bilateral cooperation programmes with the police forces of other countries.

12. Special attention was given to the human rights training of teachers, school psychologists and educators at primary and secondary schools. On

completing their training, the teachers went on to train other teachers at their schools. A number of human rights projects had been or were being carried out under that programme in cooperation with scientific institutions.

13. Replying to the second question in paragraph 21, she said that a collection of the principal United Nations documents on human rights, including the International Bill of Human Rights, had been published in Macedonian as well as in the languages of the ethnic minorities on the occasion of the fiftieth anniversary of the United Nations. A collection of the six main United Nations human rights instruments, including the Covenant, was to be published in the current year to mark the fiftieth anniversary of the Universal Declaration of Human Rights.

14. Lord COLVILLE said that the Government of the FYR of Macedonia was to be commended on its efforts to overcome the problems arising from the restructuring process and, in particular, from the major shift from a collective to a more individual approach to human rights.

15. His first question related to the statement in paragraph 533 of the report that citizens whose legal capacity had been revoked by an effective court decision were not registered in the General Voters' List. He could well understand that, for example, lawyers or doctors whose conduct was not in accordance with professional ethics should be struck off the respective register, but he could not see why, if no criminal offence had been committed, they should also lose their right to vote. A clarification on that point would be appreciated.

16. His other observation related to the issue of minorities. He was sure that he was not alone in being impressed by the positive approach to minority rights reflected in the report and in the answers provided by the delegation and was personally convinced that the trials of the persons involved in the events at Gostivar and Tetovo had been entirely regular. Consequently, he found it disturbing that some organizations described those persons as political prisoners. It would be helpful, therefore, if the delegation would confirm that his interpretation of the facts was correct.

17. Mr. KLEIN said he associated himself with the previous speaker's comments concerning minority rights. However, while the Government had taken some very important steps to deal with what was a most sensitive issue, he could not help feeling that the problem of growing tensions between the different components of the population, and especially between the ethnic Albanians and others, was more serious than the delegation's replies indicated. More information of a detailed nature would be welcome; for example, he would like to know how many of the 900 persons currently in detention were ethnic Albanians.

18. Another question that arose in connection with the rights of minorities concerned the list of judgements of the Constitutional Court supplied by the delegation in its replies. In one instance, the Constitutional Court was reported to have annulled, on the grounds of a lack of competence, a provision of the law on local self-government that would have allowed certain inscriptions in localities with a significant proportion of the population

belonging to an ethnic minority to appear not only in the Macedonian language and the Cyrillic alphabet but also in the language and alphabet of the minority concerned.

19. He wondered whether that judgement would have an adverse impact on the effectiveness of the protection being given to minorities and whether the central Government - which, according to the Constitutional Court, was competent to introduce such measures - would be more hesitant than the local councils to adopt decisions in favour of minorities. Did the ex nunc validity of the Court's decision mean that earlier decisions by local councils were still valid?

20. Paragraph 229 of the report spoke of considerable restrictions on freedom of movement in the border belt. He would like to know whether those restrictions were applicable only to the border with Albania, or were more general, and whether they were permanent or temporary.

21. With regard to the expulsion of foreigners, he asked for a clarification of the statement in paragraph 247 of the report that a foreigner "shall be escorted by an authorized official ... to the State border or to the diplomatic or consular representative office of the country whose citizen he is". Did that mean that the diplomatic or consular mission was obliged to take the foreigner concerned into custody? Paragraph 248 also required elucidation, as the Government's discretion to grant asylum did not seem to correspond to the stricter provision in the second paragraph of article 29 of the Constitution.

22. Lastly, referring to the delegation's statement at the previous meeting that there were some 200 non-governmental organizations (NGOs) in the FYR of Macedonia, he expressed surprise that so little material had been supplied to the Committee by Macedonian NGOs. He wondered whether they had been aware that the initial report was going to be discussed. Could the delegation provide any explanation?

23. Mr. YALDEN, having said that much progress in the defence and promotion of human rights had clearly been achieved in the FYR of Macedonia in recent years, remarked that the distinction in treatment between the three largest religious denominations and other religious communities and groups, including the registration requirements for the latter, was bound to strike observers as a form of discrimination. He had not been entirely satisfied with the delegation's response to the Committee's questions on that issue and asked for further evidence of parity of treatment.

24. Distinctions were frequently made between "citizens" and "persons" in both the Constitution and the preliminary version of the core document provided by the Ministry of Foreign Affairs. According to paragraph 10 of the report, citizenship status was relevant only in a limited number of cases, but according to the draft core document, "citizens" were guaranteed freedom of association and the right to peaceful assembly, "each citizen" was guaranteed respect for the privacy of his or her personal and family life, and so forth. On the other hand, "every person" had the right to employment and, according

to article 44 of the Constitution, "everyone" had a right to education. He would like an explanation of the implications of the different wording for equality of rights.

25. In its response to paragraph 19 of the list of issues, the delegation had spoken of instruction in minority languages but it was unclear whether instruction was also provided through the medium of the languages concerned. In that connection, he disagreed with a remark by the delegation to the effect that post-secondary education in minority languages led to ghettoization. According to the delegation, the Albanian-language Tetovo University was illegal and provided only "so-called" education. He strongly urged the authorities not to disregard the interests of young people who were studying at Tetovo University. According to the High Commissioner on National Minorities of the Organization for Security and Cooperation in Europe (OSCE), education was one of the most contentious issues in the FYR of Macedonia.

26. He asked for clarification of the rules governing the use of minority languages in the public sector. According to paragraph 582 of the report, minorities were allowed to use their languages in local self-government where "the majority (over 50 per cent) or a significant minority (over 20 per cent)" were members of a nationality. Which figure was applied in practice? In any case, both were unreasonably high compared with other countries, where the usual proportion was around 10 per cent.

27. The delegation asserted that the two International Covenants on Human Rights had been widely distributed. It was rather surprising, therefore, that no complaint under the Optional Protocol had yet been received from any citizen of the FYR of Macedonia.

28. Ms. MEDINA QUIROGA drew attention to the statement in paragraph 358 of the report that authorized officials of the Ministry of Internal Affairs could enter a home or other premises, even without a search warrant, in order to make an arrest. Could such action be taken at any time or only in connection with legal proceedings?

29. According to the last two sentences of paragraph 362, persons other than the accused could be subjected to body searches and medical tests without their consent in the context of criminal proceedings. It was unclear whether the persons concerned were the victims of criminal acts but, if they were, she doubted whether the procedures referred to were compatible with the Covenant.

30. She was concerned about two statements in paragraph 389: that citizens were not authorized to establish private educational institutions at the primary level and that foreigners were, as a rule, prohibited from teaching in religious schools. She asked the delegation to explain those restrictions.

31. Paragraph 401 also required clarification. Who were the "authorized persons" who provided information to journalists? And under what circumstances would a journalist be responsible for the publication of information "according to some other law"? Could the delegation provide some specific examples?

32. Paragraph 406 listed cases in which the distribution of printed materials was prohibited. What was the procedure for banning such materials?

33. With regard to paragraphs 409 and 410, the delegation had informed the Committee that the law in question was to be amended but must, in the meantime, continue to be applied. How could a law that was incompatible with the Covenant continue to be applied if international treaties took precedence over domestic law?

34. According to paragraph 469, "breach of family obligations" was an offence under article 203 of the Criminal Code. She asked the delegation to explain what was meant by that expression.

35. She had serious doubts about the impediments to marriage listed in paragraph 470, for example "persons with a limited impediment in their mental development or with slight impediments in their psychological development". She asked for details of the assessment of genetic structure required in the case of persons with hereditary illnesses.

36. She was surprised at the statement in paragraph 491 that foreign citizens in the country enjoyed the same rights of inheritance as citizens of the FYR of Macedonia "under conditions of reciprocity". Human rights had nothing to do with reciprocity.

37. Mr. SCHEININ said he agreed with the previous speaker that the relationship between the Covenant and outdated legislation restricting freedom of expression needed clarification. In particular, the law under which only registered companies were authorized to import printed material and individuals were prevented from importing more than was required for their own use was incompatible with article 19 of the Covenant and also, in fact, with the third paragraph of article 16 of the Constitution. Were the administrative authorities required to apply such outdated legislation? Surely, they should be bound by the higher principles of human rights and fundamental constitutional rights.

38. According to the delegation, there were no statistics concerning police misconduct in cases involving members of ethnic minorities because such information was sensitive and came under the heading of data protection in the interests of privacy. Many countries had, however, devised methods of compiling statistics with an ethnic breakdown that did not cause problems because they were backed by strong guarantees against abuse of the data. Another possible approach was to record whether complainants considered that their identity had been a relevant factor in incidents. He wondered whether the circumstance that no incidents of violence against the Roma had been reported might be attributable to the data protection requirement. The Government should consider alternative methods of breaking down statistics on incidents of misconduct by the authorities so that the ethnic factor could be made more explicit.

39. According to paragraph 11 of the Committee's General Comment No. 22, a right to conscientious objection could be derived from article 18 of the Covenant. The Committee had been informed of the existence in the FYR of Macedonia of unarmed service within the armed forces for conscientious

objectors. Many objectors would, however, be unable to accept any form of incorporation into the structure of the armed forces. He wondered, therefore, whether the Government would consider introducing independent civilian service.

40. He was concerned that some of the delegation's answers to the questions on minorities had failed to acknowledge the importance of self-government for minority communities as a means of ensuring independent decision-making on cultural, linguistic and other rights. There was nothing to be gained from classifying certain institutions as illegal. If there was a need for minority language education, it was preferable to engage in negotiations and to provide a measure of self-government that would allow members of the minority communities to become involved in educational planning.

41. With regard to incidents in Gostivar and other townships having a large ethnic Albanian population, he was concerned that many mayors or elected chairmen of county assemblies had been imprisoned and that they had been prosecuted under criminal clauses relating to incitement to racial hatred. Clauses designed to protect minorities should not be used against them. It was also unclear whether the defendants had enjoyed all the guarantees provided for under article 14, paragraph 3, of the Covenant.

42. Mr. Bhagwati, Vice-Chairperson, took the Chair.

43. Mr. EL SHAFEI said that the Committee appreciated the delegation's efforts to provide it with a wide range of relevant information.

44. According to the initial report by the FYR of Macedonia to the Committee on the Rights of the Child (CRC/C/8/Add.36), about 18,000 of the total of roughly 78,000 criminal offences registered between 1992 and 1995 had been committed by children. Had any programmes focusing on families and schools been introduced to prevent children from becoming involved in criminal activities?

45. Annex I to the report gave a breakdown of the country's population. Seventeen of the 29 groups listed accounted for less than 1 per cent of the population. He would like to know what criteria were used to assign persons to a certain category, such as that of Muslims or Egyptians. According to the Democratic Forum for the Protection of Human Rights and Freedoms in Macedonia-Gostivar, the Constitution ignored the fact that Albanians were co-founders of the State and treated them as a minority. Many constitutions recognized different components of a particular population but he was unsure whether the Albanians were viewed as a component of the population of the FYR of Macedonia.

46. Mr. ANDO said that, according to paragraph 410 of the report, a permit from the Ministry of Internal Affairs was required for the importation and dissemination of foreign printed material which, by their contents, were intended for citizens of the Republic of Macedonia. Any foreign materials that had been translated into national languages were surely intended for the country's citizens. Paragraph 411 referred to time limits on the validity of import permits. After the expiry of that period, was further importation automatically prohibited? Was the Second Instance Commission for

Administrative Disputes mentioned in paragraph 412 an administrative or a judicial body? If it was an administrative body, were its decisions subject to judicial review?

47. With reference to paragraphs 414 and 415 of the report, he asked why the Government had considered it necessary to set up an International Press Centre for foreign journalists. Concerning the right to peaceful assembly, he noted that paragraph 429 mentioned three cases in which police had used force to disperse a gathering, resulting in one death and numerous injuries. He asked whether the incidents in question were those that had taken place in Gostivar.

48. Ms. Chanet resumed the Chair.

49. Mr. BUERGENTHAL, having complimented the delegation on a thorough and carefully drafted report, said that he would appreciate clarification of the statement that a religious group had to have "a seat" in Macedonia in order to be registered, and also of the statement that teachers in religious schools were required "in general" to be citizens of the country. He would also like to know why the import of foreign printed material required a special licence. No explanations were given in paragraph 410 of the report regarding cases in which licences had been refused. He was somewhat concerned to see that that matter was in the hands of the Ministry of Internal Affairs.

50. He had not fully understood the delegation's statement in one of its replies that one reason the Serbian Orthodox Church was not registered in the country was that it did not recognize the Macedonian Orthodox Church. Similarly, he could not see why the setting up of private religious schools should be prohibited, provided that those schools met the educational standards laid down by the Ministry of Education. He would welcome explanations on those two points.

51. While he agreed that an unlicensed university should not be permitted to teach, he did not understand why the FYR of Macedonia's concern with regard to the issue of Albanian nationalism should prohibit the setting up of an Albanian-language university in the country. Lastly, the statement that anyone asserting that his rights under the Covenant had been violated had the right to appeal to the Constitutional Court "in the light of article 118 of the Constitution" was, he thought, a somewhat over-optimistic interpretation of the position.

52. The meeting was suspended at 11.25 a.m. and resumed at 12 noon.

53. Mrs. LAZAROVA-TRAJKOVSKA (the former Yugoslav Republic of Macedonia) said, in reply to the questions on the import of printed materials, that new legislation was shortly to be introduced under which responsibility for the matter would be taken over by the Ministry of Culture. In practice, the FYR of Macedonia's policy in that area was very liberal. Out of 200 applications to the Ministry of Internal Affairs, only three had been refused. There was no limit to the number of publications that could be imported under a single application. Those refused licences had the right to appeal to the administrative authorities and, ultimately, to the Supreme Court.

54. Concerning Mr. Klein's question on trans-frontier movement, the FYR of Macedonia, like other European States, had legislation governing entry into and residence in the border areas. The figures quoted in the report in relation to illegal crossings by Albanians of the border between the FYR of Macedonia and Albania for the period 1993 to 1997 did not imply that only Albanians were guilty of that offence. Romanians, Russians, Ukrainians and Bulgarians were also involved in attempts to enter the country illegally. There were currently some 26,000 people residing illegally in the FYR of Macedonia.

55. On the question of the word "escorted" used in the report, she explained that a foreigner who stayed on in the country after his visa had expired would first receive a reminder from the Ministry of Internal Affairs of the need to renew the visa. If he failed to do so, the Ministry would then contact the diplomatic or consular representative of the person's country in order to arrange for him to be sent back either to that country or to another country of his choice that would agree to accept him.

56. In reply to Mr. Klein's question, she said that NGOs no longer had to be registered with the Ministry of Internal Affairs. More than 6,500 NGOs were currently registered in the FYR of Macedonia, probably half of which had been registered after 1992. The figure of 200 related only to women's organizations. Persons without Macedonian citizenship were entitled to register NGOs and 31 of them in fact had been registered by foreigners.

57. Ms. JANJIC (the former Yugoslav Republic of Macedonia), replying to the question on the right to vote, said that an incorrect translation of the third paragraph of article 22 of the Constitution had given rise to a misunderstanding. In fact, the text should read: "Persons deprived of legal capacity by a court verdict do not have the right to vote". The procedure for deprivation of legal capacity was regulated by the Law on Non-Contentious Procedures, under which the right of the person concerned to be heard by the court, to have evidence given concerning his condition, including specialist medical evidence, and to appeal against the verdict on grounds of deprivation of liberty, was guaranteed.

58. In response to the question asked by Ms. Medina Quiroga regarding the crime of breach of family obligations, she said that the penalty for abandoning a family member who was incapable of taking care of himself would be a term of imprisonment of from three months to three years. If the abandonment resulted in the death of the family member or in a serious deterioration in his health, the penalty would be a term of imprisonment of from one to five years.

59. Mr. TODOROVKSI (the former Yugoslav Republic of Macedonia), replying to another question by Ms. Medina Quiroga, said that violation of the privacy of the home without a warrant was unconstitutional. Under article 26 of the Constitution, search of a home could be ordered only by a court. Under article 199 of the Criminal Procedure Code, the search had to be authorized by a written decision containing details of the location, the person to be sought, and the objects to be located. The only exception was provided under article 202 of the Criminal Procedure Code, which authorized officials of the Ministry of Internal Affairs to enter a home or other premises without a

search warrant in order to apprehend a person whose arrest had been ordered by the court. Such searches were carried out only when deemed essential to locate the person or objects sought.

60. Under article 13 of the Constitution, a person unlawfully deprived of liberty or unlawfully detained had the right to compensation, under procedures laid down in the Criminal Procedure Code. A number of cases of unlawful detention had been registered in the period covered by the report, and in all of them disciplinary measures had been instituted against the police officers responsible. The Ministry of Internal Affairs was currently taking steps to bring domestic law into line with international standards in the matter.

61. Mr. STOJANOVSKI (the former Yugoslav Republic of Macedonia), in reply to the question about the "escorting" of foreigners to diplomatic or consular missions, explained that the reference was not to foreigners guilty of an offence, but rather to those who had simply exceeded the period of stay in the country authorized by bilateral or regional agreements. The diplomatic or consular representative could provide any assistance needed if, for instance, the person concerned was in financial difficulties.

62. NGOs had been consulted on certain issues when the report was being prepared. However, it should be understood that NGOs in the Republic operated differently from those in the former Yugoslavia: unfortunately, they sometimes abused their position and became mere mouthpieces for political propaganda. After its consideration by the Committee, the report would be made available to NGOs as well as to the general public, in the hope that it would encourage them to enter into a more constructive dialogue with the Government.

63. In reply to Mr. Yalden's question why no complaint had been received from citizens of the FYR of Macedonia under the Optional Protocol to the Covenant, he said that there were probably not enough lawyers in the country with adequate language skills to assist individuals in the drafting of communications relating to international law. Regarding the difference between "citizens" and "persons", he explained that the Macedonian word thus translated was simply a general term meaning "everyone" or "everybody".

64. As for Ms. Medina Quiroga's question about the approach used when there was a conflict between a domestic law and the Covenant, he said the domestic law had to be amended and, in practice, that was what happened. Concerning reciprocity in inheritance procedures, he said his country's practices had a basis in its history. Since some neighbouring countries refused to allow citizens of the FYR of Macedonia residing in their territories to inherit property, his Government applied the same policy under certain bilateral treaties.

65. On the question concerning the statistics regarding police misconduct - which he believed was prompted by concern about police treatment of the Albanian minority - he said that there was nothing in the law that obligated a person, in any given situation, to state his ethnic origin.

66. The system of quotas for entrance into the university of members of ethnic groups had proved to have had negative effects, and it was debatable

whether they should be redoubled by additional measures along the same lines. In a specific instance known to him, the police were alleged to have been responsible for the death of a Roma woman in a market place but she had, in reality, succumbed to a heart attack provoked by very hot weather. The slogan of minority protection was, unfortunately, being overused to the point of abuse.

67. On juvenile crime and the questions asked by Mr. El Shafei, he said the authorities were doing their best to prevent it, including through the educational process, the actions of NGOs and the work of the national anti-drug commission. He undertook to furnish in writing additional information on governmental efforts in that field.

68. Responding to Mr. Ando's question about the International Press Centre, he said it was a convenience for journalists, both citizens of the country and foreigners. It offered facilities for receiving e-mail, fax transmissions and data and represented an attempt to keep pace with modern communications techniques. Journalists were under no obligation to use its services and there were, in fact, two private clubs that offered similar facilities. The three cases mentioned in paragraph 429 of the report had occurred during the reporting period, i.e. prior to 30 June 1997 which was 10 days before the events in Gostivar.

69. Since 1944, the arrangements for local self-government had undergone modification several times, in an attempt to find the best option. His country did not have a large land area - only about 24,000 square kilometres - and the objective was to create close interlinkages between communities, whose number had recently been increased from 33 to just over 100. Unfortunately, the position of "communal pole", or mayor, was used in most cases to advance a political agenda rather than to improve living conditions in the community. The reason why the central authorities had to be responsible for certain decisions affecting the communities was that smaller ethnic groups needed special protection to survive.

70. He was surprised to hear from Mr. Klein's question about the decision of the Constitutional Court that it had been ex nunc, and he would check the fact. He was likewise surprised at the number of mayors said to be in prison - to his knowledge, there were only two, in addition to two heads of local council committees who had been responsible for implementing the Constitutional Court's decision and had refused to do so.

71. Religion was a difficult matter for the authorities to deal with, owing to the history of the country, and they had carefully studied the Committee's recommendations on avoidance of discrimination. With the new regulations, the only requirement was to re-register and to choose the title "religious community" or "religious group". For the Muslim and Orthodox religious communities, there would be no problem, as they both had a sufficiently large membership and a well-developed administrative structure. The Catholic religious community was smaller in size and might have a problem in registering. The intention was, however, to preserve those three religious communities, which had been present for most of the country's history, without prejudice to the rights of the other religious communities. In respect of religious exchanges with other countries, he noted that the Serbian Orthodox

Church did not recognize the Macedonian Orthodox Church. Teachers of religion from his country were not allowed to teach in neighbouring countries. The FYR of Macedonia had countered those restrictions with similar limitations.

72. There were no alternatives to army service for homosexuals, but on the other hand, no requests for any such alternative service had been made.

73. On the minority question, he said the sole reason for the presence of the United Nations Preventive Deployment Force (UNPREDEP) in his country was to prevent spillover from the ethnic strife in Bosnia, Albania and Kosovo. Dealing with the Albanian minority was a very delicate matter: if the wrong signals were sent out, it would be encouraged in its aspirations to form a federal State. Those aspirations were based on a misunderstanding of the basis for self-determination and a failure to recognize that it had to be exercised by peoples, not minorities.

74. Reports of tension between Macedonians and Albanians in his country were common. The authorities were well aware that there was a problem and would be grateful for any assistance to resolve it. It was necessary, however, to carry out an in-depth analysis before taking any precipitate action.

75. The CHAIRPERSON, summing up the discussion, said that all the members of the Committee had commended the authorities of the FYR of Macedonia on a truly excellent report that had been very carefully researched. It was a noteworthy and welcome fact that the members of the delegation had actually attended the Committee's meetings to prepare for the discussion of the report. The efforts they had made had resulted in high-quality oral presentations.

76. In view of the difficult transition from collective to individual values, it was hardly surprising that few citizens of the FYR of Macedonia had submitted complaints under the Optional Protocol. The Committee welcomed the country's accession to the Covenant immediately upon its succession to the Federal Socialist Republic of Yugoslavia, an act which corresponded entirely to what the Committee considered necessary to the continuity of the protection given to populations under the Covenant.

77. Members of the Committee had, of course, raised a number of concerns. There was some question about the extent to which the Covenant was incorporated into domestic law and whether it took precedence over it. The situation of women was another weak point, and the delegation had very frankly admitted that much remained to be done to overcome the problems. The fact that there were still strong prejudices against women's education suggested that measures of positive discrimination might be required.

78. The requirement of registration for religious communities might constitute a violation of the right to religious freedom under article 18 of the Covenant. Limitations on the import of literary works from foreign countries were likewise a cause for concern.

79. On the most thorny issue, that of minority rights, the delegation had been somewhat less forthcoming than on other subjects. She drew attention to

paragraph 5.2 of the Committee's General Comment No. 23 on article 27 (HRI/GEN/1/Rev.2), which indicated that the existence of an ethnic minority in a State did not depend upon a decision by the State but required to be established by objective criteria.

80. Finally, she said that, when the FYR of Macedonia submitted its second periodic report, the Committee would be looking, not for a better report, as the initial one had been excellent, but for signs that, in the interim since its discussion, progress in guaranteeing human rights had been made. She thought that there was every likelihood that that would be the case, and she thanked the delegation for participating in the discussion.

81. Mr. TODOROVSKI (the former Yugoslav Republic of Macedonia) said he fully agreed that work on human rights under the Covenant was a two-way street. His delegation looked forward to further interaction with the Committee and he would convey to his authorities the comments made and questions asked, which had provided insights into how a number of problems should be approached and lacunae remedied.

The meeting rose at 1 p.m.